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RECEIVED

December 17, 1997

DEC 19 1997

FCC MAIL ROOM

Office of the Secretary
CC Docket No. 96-45
Federal Communications Commission
Room 222
1919 "M" Street, N.W.
Washington, D.C. 20554

VIA FEDERAL EXPRESS

Re: Bristol Bay Telephone Cooperative, Inc.
Designation of Eligibility

Dear Sir or Madam:

Enclosed for official filing with the Office of the Secretary is a true, correct and complete copy of Alaska Public Utilities Commission Order U-97-145(1) granting "eligible carrier status" to Bristol Bay Telephone Cooperative, Inc. ("BBTC") for the purposes of 47 U.S.C. 214(e)(1) and 254. The service area with respect to which this eligibility designation applies is BBTC's certificated service area, which is the same as its "study area". This service/study area consists of the Alaskan communities of and areas surrounding, King Salmon, Naknek, South Naknek, Ekwok, Igiugig, Koliganek, Levelock, and New Stuyahok.

Under separate cover, I am also forwarding true, correct and complete copies of APUC Order U-97-145(1) to Ms. Chris Boreyko at NECA and to Ms. Sheryl Todd of the FCC's Universal Service Branch.

To assure that my file on this matter is complete, may I ask you to return a receipt-stamped copy of this transmittal letter to me in the self-addressed, postage prepaid envelope which is also enclosed.

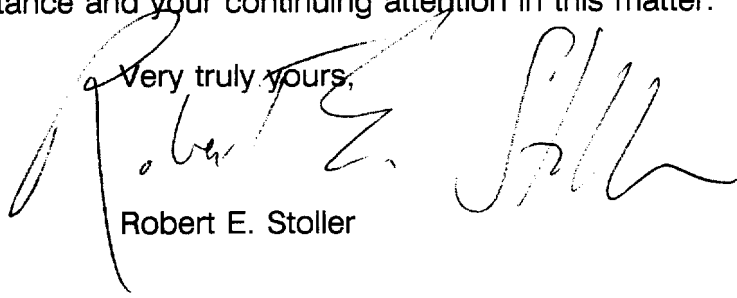
Finally, if there is anything else that must be done on behalf of Bristol Bay Telephone Cooperative to assure its continuing receipt of universal service support from and after January 1, 1998, please advise me at your earliest possible convenience.

cc: [unclear] [unclear]
[unclear] [unclear]
[unclear] [unclear]

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Page 2

Thank you for your assistance and your continuing attention in this matter.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert E. Stoller", is written over the typed name. The signature is fluid and cursive, with a large initial "R" and "S".

Robert E. Stoller

RES/kac

Enclosures as stated.

cc: Duane C. Durand (w/o enclosures)
General Manager
Bristol Bay Telephone Cooperative, Inc.

Chris Boreyko (w/o enclosures)
Manager, Lifeline and Eligibility
National Exchange Carrier Association, Inc.

RECEIVED
DEC 19 1997

STATE OF ALASKA

REG MAIL ROOM

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners:

Sam Cotten, Chairman
Alyce A. Hanley
Dwight D. Ornquist
Tim Cook
James M. Posey

In the Matter of the Request by)
BRISTOL BAY TELEPHONE COOPERATIVE,)
INC., for Designation as a Carrier)
Eligible To Receive Federal)
Universal Service Support Under)
the Telecommunications Act of 1996)

U-97-145

ORDER NO. 1

ORDER GRANTING ELIGIBLE CARRIER STATUS; GRANTING
LIMITED WAIVER; AND ESTABLISHING TOLL-CONTROL
AND ADVERTISING REQUIREMENTS

BY THE COMMISSION:

Background

On September 11, 1997, BRISTOL BAY TELEPHONE COOPERATIVE, INC. (BBTC), filed an application requesting to be designated as a carrier eligible to receive federal universal service support under the Telecommunications Act of 1996 (the Act)¹ in the service area for which it is certificated under Certificate of Public Convenience and Necessity (Certificate) No. 182. BBTC filed this request in response to Order R-97-6(1),²

¹47 U.S.C. 151, et seq., as amended by the Act.

²That proceeding is entitled: *In the Matter of the Consideration of Intrastate Universal Service.*

1 dated August 22, 1997.³ This Docket is opened for the purpose of
2 addressing BBTC's request.

3 The Commission observes that Alaskan carriers must
4 receive eligible carrier status from this Commission as a
5 prerequisite for receipt of federal universal service funding for
6 qualifying telecommunications services to local customers and to
7 rural health care providers (RHCPs).⁴ Section 214(e)(1) of the
8 Act provides the criteria a carrier must meet to be deemed
9 eligible for universal service support:

10 A common carrier designated as an eligible tele-
11 communications carrier under paragraph (2) or (3) shall
12 be eligible to receive universal service support in
13 accordance with section 254 of this title and shall,
throughout the service area for which the designation
is received —

14 (A) offer the services that are supported by
15 Federal universal service support mechanisms under
16 section 254(c) of this title, either using its own
17 facilities or a combination of its own facilities
and resale of another carrier's services (includ-
ing the services offered by another eligible tele-
communications carrier); and

18 (B) advertise the availability of such services
19 and the charges therefor using media of general
distribution.

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24 ³By Order R-97-6(1), the Commission required a carrier
25 seeking eligible carrier status to submit information in support
26 of its request by September 22, 1997.

⁴See 47 U.S.C. § 214(e) and 47 C.F.R. § 54.201.

1 As required under Section 214(e) of the Act, the main
2 issues the Commission must consider when evaluating BBTC's eli-
3 gible carrier application are:

- 4 a) whether the carrier will sufficiently
5 advertise its services;
6 b) what services the carrier provides; and
7 c) what service area should be supported.
8

9 On November 5, 1997, the Commission Staff (Staff)
10 submitted a memorandum recommending the Commission grant eligible
11 carrier status to BBTC and provide a waiver of certain service
12 requirements. No other entity filed a response addressing BBTC's
13 application. A copy of Staff's memorandum is attached to this
14 Order as an Appendix.

15 Discussion

16 The Commission has reviewed the filings and the relevant
17 requirements in this proceeding under both the Act and the Federal
18 Communications Commission (FCC) Orders. For the reasons cited
19 herein, the Commission accepts Staff's recommendation to grant
20 BBTC eligible carrier status in its designated certificated
21 service area.
22

23 Service Area

24 Section 214(e)(2) and (5) of the Act provide the Commis-
25 sion with primary authority to set an eligible carrier's geo-
26 graphic service area "for the purpose of determining universal

1 service obligations and support mechanisms." The Act further
2 states that "[i]n the case of an area served by a rural telephone
3 company, 'service area' means such company's 'study area'"⁵ unless
4 and until an alternative definition is established by the FCC and
5 the individual states after consultation with a Federal-State
6 Joint Board. The Commission concludes that BBTC is a rural
7 telephone company as it serves about 1750 access lines.⁶

8 BBTC proposed its eligible carrier service area be its
9 certificated service area.⁷ The Commission observes that BBTC's
10 proposed certificated service area is, for all practical purposes,
11 equivalent to its study area, as BBTC serves only one study area.
12 As a result, BBTC's proposed eligible carrier service area is
13 consistent with the requirements of the Act. No entity proposed
14 an alternative area for BBTC or opposed BBTC's filing on this
15 issue. Therefore, the Commission designates BBTC's certificated
16 service area as its eligible carrier service area.

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19 ⁵A "study area" is the geographic area covered by the
20 utility's financial accounting records.

21 ⁶Based on statistics for 1997 - 1998 filed by the Alaska
22 Telephone Association, BBTC serves about 1750 access lines, with
23 the largest exchange served being about 1400 access lines. Among
24 other provisions, Section 47 U.S.C. § 153(37) specifies rural
25 status for a carrier that provides telephone exchange service to
26 fewer than 50,000 access lines or provides telephone exchange
service to any local exchange carrier study area with fewer than
100,000 access lines.

⁷In its application, BBTC requested a service area defined by
the Commission under the Act. The Commission interprets this as
a request for BBTC's certificated service area.

1 **Services Criteria**

2 As previously stated, Section 214(e)(1)(A) of the Act
3 requires that, as a condition of eligibility, a carrier must
4 "offer the services that are supported by Federal universal
5 service support mechanisms under Section 254(c)" FCC
6 regulations at 47 C.F.R. § 54.201(d)(1) state:

7 A common carrier designated as an eligible
8 telecommunications carrier under this section shall be
9 eligible to receive universal service support in
accordance with § 254 of the Act and shall, throughout
the service area for which the designation is received:

10 (1) offer the services that are supported by
11 federal universal service support mechanisms under
12 subpart B of this part and § 254(c)⁸ of the Act,
13 either using its own facilities or a combination
of its own facilities and resale of another
carrier's services

14 Subpart B services are defined by the FCC as:

- 15 1) voice grade access to the public switched
network;
16 2) local usage;
17 3) dual tone multi-frequency signaling or its
18 functional equivalent;
19 4) single-party service or its functional
20 equivalent;
21 5) access to emergency services;

22
23 ⁸Section 254(c)(1) of the Act states, in relevant part, that
24 the FCC, in establishing services supported by the federal univer-
25 sal service fund, should consider the extent services are essen-
26 tial to education, public health, or public safety, and whether
the services meet other specified criteria. Section 254(c)(3)
allows the FCC to include for support certain schools, libraries,
and health care providers not otherwise designated under para-
graph (1).

- 6) access to operator services;
- 7) access to interexchange services;
- 8) access to directory assistance; and
- 9) toll limitation for qualifying low-income consumers (including LinkUp services).

Each of the above nine basic services are defined at 47 C.F.R. § 54.101(a), except for LinkUp which is defined at 47 C.F.R. § 54.411. Under 47 C.F.R. § 54.405, the FCC also requires that "[a]ll eligible telecommunications carriers shall make available Lifeline service, as defined in § 54.401, to qualifying low-income consumers."⁹

The Commission has reviewed BBTC's filings and Staff's memorandum on this matter. The Commission concurs with Staff that BBTC provides the nine basic services (except as otherwise waived by this Order) and BBTC has authority to provide Lifeline and LinkUp services to qualifying low-income customers beginning January 1, 1998.¹⁰ The Commission also concurs with Staff that BBTC appears capable of providing services to RHCPs as demonstrated by its ability to provide the nine basic services. Furthermore, BBTC

⁹Lifeline and LinkUp services allow qualifying low-income customers to receive reduced local rates and reduced charges for commencing telephone service. Specifically, Lifeline provides a reduction to the basic local rate and subscriber line charge payments while LinkUp provides a reduction in the carrier's customary nonrecurring charge for commencing telecommunications services at a consumer's principal place of residence.

¹⁰By Letter Order L9700748, dated November 21, 1997, the Commission conditionally approved BBTC's tariff revision, designated as TA29-182 (Lifeline/LinkUp services), effective December 15, 1997.

1 has a general obligation under its tariff and Certificate to
2 provide local service to its customers, including RHCPs, located
3 in BBTC's certificated service area. Evidence does not exist that
4 BBTC cannot or will not provide required local services to its
5 limited number of RHCPs upon request.¹¹ Taking into consideration
6 the waiver and conditions specified later in this Order, the
7 Commission concludes BBTC meets the services criteria for eligible
8 carrier status for its proposed service area.

9 A dispute currently exists in Docket U-97-173,¹² and
10 other related cases, as to the eligible carrier services criteria
11 specified by the Act and the FCC. Following is a list of the key
12 issues:

13 a) whether eligible carrier status may/should be
14 granted separately by category of universal service
15 support (e.g., high cost local services, rural health
16 care services);

17 b) whether the service criteria is limited to the
18 nine services test;
19
20
21
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23 ¹¹There are few hospitals per exchange in most rural areas of
24 the state, and there is often only one health clinic per exchange.

25 ¹²That proceeding is entitled: *In the Matter of the Request*
26 *by GCI COMMUNICATION CORP. d/b/a GENERAL COMMUNICATION, INC., and*
d/b/a GCI for Designation as a Carrier Eligible To Receive Support
for Interexchange Services to Rural Health Care Providers.

1 c) whether an interexchange carrier must provide
2 the nine basic local services to be deemed an eligible
3 carrier to receive rural health care support; and

4 d) whether local carriers should package inter-
5 exchange services required by RHCPs and obtain the
6 associated universal service funding.

7 The Commission concludes that whether BBTC must sepa-
8 rately qualify for each universal service support category or
9 whether it need only provide the nine basic services is irrelevant
10 since BBTC appears to meet both service criteria in its proposed
11 service area. Therefore, the disposition of Docket U-97-173 will
12 not compromise the Commission's conclusion that BBTC meets the
13 services criteria for eligibility in its proposed service area.
14 It is possible, however, that BBTC's responsibilities as an
15 eligible carrier may be broadened, possibly to include packaging
16 of services to RHCPs, as a result of conclusions reached in Docket
17 U-97-173.

18 The Commission's method of evaluating whether BBTC meets
19 the services criteria was selected solely to demonstrate that BBTC
20 qualifies as an eligible carrier regardless of which service
21 methodology is ultimately selected as a standard in Docket
22 U-97-173. The Commission's method of analysis in this Docket does
23 not necessarily suggest the Commission's ultimate decision on
24 issues raised in Docket U-97-173.

1 **Waiver**

2 A state commission may grant a waiver of the single-
3 party, access to enhanced 911, and toll-limitation-service
4 criteria to provide additional time for a carrier to complete
5 network upgrades necessary for service.¹³ The only waiver issue
6 raised in this Docket is whether BBTC should be granted a waiver
7 of the toll-control portion of the toll-limitation-services
8 requirement.

9 FCC regulations define toll-limitation services as both
10 toll blocking and toll control. Toll control is a service
11 provided by carriers that allows consumers to specify a certain
12 amount of toll usage that may be incurred on their telecommunica-
13 tions channel per month or per billing cycle.¹⁴

14 The local carriers seeking eligibility in Alaska have
15 asserted that local carriers in Alaska do not have the equipment
16 capable of limiting a customer's monthly toll calling to a set
17 amount of toll usage. For example, no local carrier can block a
18 customer's outgoing long distance calls after the customer has
19 placed \$30 worth of long distance calls in a month. The local
20 carrier would need access to the customer's long distance account
21 information, information commonly available only to the customer's
22 long distance carrier, in order to block the customer's long
23 distance calls after a set amount of toll usage in a billing
24

25 ¹³See 47 C.F.R. § 54.101(c).

26 ¹⁴See 47 C.F.R. § 54.400(c).

1 cycle. Therefore, local carriers have either stated they cannot
2 comply with the toll-control requirement, sought a waiver from the
3 Commission, or proposed to achieve toll control through sale of
4 debit cards in conjunction with toll blocking. BBTC proposed to
5 comply with the toll-control requirement through sale of debit
6 cards in conjunction with toll blocking.

7 The Commission concludes that the provision of toll-
8 control service, through the sale of debit cards in conjunction
9 with toll blocking, appears reasonable at this time since it
10 allows customers the ability to control their toll calling. The
11 Commission, therefore, accepts BBTC's approach to toll control,
12 with the following conditions, until a better alternative arises:

13 a) BBTC shall not unduly discriminate in the
14 selection of debit-card carriers it makes available to
15 its low-income customers;

16 b) debit cards must be associated with an
17 authorized intrastate interexchange carrier;

18 c) no implicit authority or waiver of intrastate
19 regulations is granted by virtue of the Commission's
20 accepting BBTC's proposal to act as a retail vendor of
21 debit cards of authorized intrastate interexchange
22 carriers to low-income customers; and

23 d) if BBTC's demonstrated authorized debit cards
24 are readily available in its service area and subject
25 to Commission approval, the toll-control requirement
26

1 may be met by the utility apprising its low-income
2 customers of how toll control may be achieved through
3 debit cards and call blocking. In this instance, BBTC
4 would not need to sell debit cards to meet its toll-
5 control requirement. To take advantage of this option,
6 BBTC must file a request with supporting information
7 within two weeks of the date of this Order.

8 The Commission concludes the above approach will allow
9 BBTC to comply with the toll-control requirement until techno-
10 logical advances provide a better solution. However, the FCC may
11 deem the above approach inadequate. Therefore, as a precaution,
12 the Commission will grant the utility a limited waiver of the
13 toll-control requirement to the extent the requirement is not
14 fulfilled by the above approach.

15 Advertising Criteria

16 BBTC proposes to meet the advertising criteria of Sec-
17 tion 214(e)(1)(B) of the Act by advertising the availability of
18 its services through advertisements in local newspapers, postings
19 on bulletin boards, and bill stuffers. The Commission has deter-
20 mined it is in the public interest and consistent with the Act for
21 BBTC to advertise its services sufficiently so that its customers
22 are aware of their service options, including the availability of
23 Lifeline and LinkUp services. Customers cannot take advantage of
24 Lifeline/LinkUp or any other supported local services if they are
25 not aware the services are available. Notification of Lifeline
26

1 and LinkUp services is especially critical since these services
2 provide an opportunity for low-income customers to obtain what
3 might otherwise be an unaffordable service, thus promoting state-
4 wide universal service.

5 As a matter of public interest and in compliance with the
6 Act, the Commission concludes the following methods shall be
7 employed as the minimum compliance criteria to ensure appropriate
8 and sufficient customer notification of BBTC's services:¹⁵

9 a) once every two years BBTC must perform com-
10 munity outreach through appropriate community agencies
11 by notifying those agencies of BBTC's available ser-
12 vices;

13 b) once every two years BBTC must post a list of
14 its services on a school or community center bulletin
15 board in each of BBTC's exchanges;

16 c) once a year BBTC must provide a bill stuffer
17 indicating its available services; and

18 d) once a year BBTC must advertise its services
19 through each newspaper, if one exists, at the locations
20 served by BBTC.
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25 ¹⁵In the following paragraphs addressing minimum advertising
26 requirements, "services" refers to those services for which BBTC
receives universal service support. BBTC need not advertise
nonsupported services.

1 Conclusion

2 Based on the above review, the Commission designates
3 BBTC as an eligible carrier in its certificated service area,
4 subject to the conditions expressed in this Order. BBTC is
5 granted a limited waiver of the toll-control requirement to the
6 extent the Commission's debit-card based approach is deemed an
7 insufficient method of toll-control compliance by the FCC.

8 ORDER

9 THE COMMISSION FURTHER ORDERS:
10

11 1. The application filed by Bristol Bay Telephone
12 Cooperative, Inc., requesting to be designated as a carrier eli-
13 gible to receive federal universal service support under the
14 Telecommunications Act of 1996 in the service area for which it
15 is certificated under Certificate of Public Convenience and
16 Necessity No. 182 is granted.

17 2. Bristol Bay Telephone Cooperative, Inc., is granted
18 a waiver of the toll-control requirement to the extent such a
19 waiver is necessary to comply with the Federal Communications
20 Commission standards regarding provision of toll control.

21 3. By January 1, 1998, Bristol Bay Telephone Coopera-
22 tive, Inc., shall comply with the debit-card and toll-control
23 requirements as more fully delineated in the body of this Order.

24 4. By January 1, 1998, Bristol Bay Telephone Coopera-
25 tive, Inc., shall comply with the advertising requirements more
26 fully delineated in the body of this Order.

Alaska Public Utilities Commission
1016 West Sixth Avenue, Suite 400
Anchorage, Alaska 99501
(907) 276-6222; TTY (907) 276-4533

1 5. By 4 p.m., December 29, 1997, Bristol Bay Telephone
2 Cooperative, Inc., may file a request to limit its obligation
3 under Ordering Paragraph No. 3 above, as more fully delineated in
4 the body of this Order.

5
6 DATED AND EFFECTIVE at Anchorage, Alaska, this 15th day of Decem-
ber, 1997.


7 BY DIRECTION OF THE COMMISSION
8
9



MEMORANDUM

November 5, 1997

To: Chairman Cotten
Commissioner Hanley
Commissioner Ornquist
Commissioner Cook
Commissioner Posey

From:  Lori Kenyon, Common Carrier Specialist

Re: Eligibility of BBTC
Docket U-97-145

Recommendation

Staff recommends the Commission grant Bristol Bay Telephone Cooperative, Inc. (BBTC) status as an Eligible Carrier in its designated certificated service area, for purposes of receiving all available federal universal service funding for local exchange services and subject to conditions regarding the sale of debit cards by BBTC. BBTC should be granted limited waiver of the Toll Control requirement as further discussed in this memorandum.

Background

In Alaska, the majority of local exchange carriers (LECs) receive support to reduce local rates through various federal programs including the Universal Service Fund (USF) and the weighted Dial Equipment Minutes (WDEM) mechanisms.¹ In 1994, Alaskan LECs received about \$31 million dollars in support from the USF and about \$12 million dollars as a result of WDEM. The Telecommunications Act of 1996 (the Act) required several changes be made to the existing federal systems of support.

As a result of the Act and various Federal Communication Commission (FCC) orders, after January 1, 1998, a carrier must be designated an "Eligible" carrier in order to receive support for local exchange, low income, or rural health care services.² In other words, an Alaskan local exchange carrier (LEC) will not receive its portion of the \$43 million federal funding mentioned above to reduce local rates until the carrier gains the appropriate "Eligible Carrier" status.

¹The USF is a program designed to pay for high local loop (e.g., poles, cables) costs while WDEM was designed to offset switching costs.

² See 47 USC 214(e)(1), 254(e), and 47 CFR 54.201(a)(1) and (2). Eligibility is not a requirement for an entity to receive federal support for services provided at discount to schools and libraries. 47 CFR 54.201(a)(3).

There is dispute within the industry as to whether eligible carrier status may be evaluated individually by type of universal service (e.g., local rates, low income, rural health care).³ In a separate proceeding the Commission is reviewing possible eligible carrier status solely for the purpose of providing interexchange services to rural health care providers (RHCPs) and receiving the associated federal support.

Who Designates Eligibility?

Staff believes that state commissions have authority to designate eligibility status for carriers under Section 214(e)(2) of the Act:⁴

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of [Section 214(e)] paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may, in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1).

Criteria for Eligible Status

The Act at Section 214(e)(1) specifies the criteria a carrier must meet to be deemed eligible for universal service support:

A common carrier designated as an eligible telecommunications carrier ... shall be eligible to receive universal service support in accordance with section 254 and shall, throughout the service area for which the designation is received --

(A) offer the services that are supported by Federal universal service support mechanisms under section 254(c), either using its own facilities or a combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier); and

(B) advertise the availability of such services and the charges therefor using media

³ All carriers may receive federal funding for services provided to qualifying schools and libraries regardless of eligibility status.

⁴It has yet to be determined if the FCC has the authority to reject, modify, or place conditions on carrier eligibility designated by a state commission.

of general distribution.⁵

The FCC contends that Section 214(e) does not permit the FCC or the states to adopt additional criteria for designation as an eligible carrier.⁶

Given the above, the main issues the Commission must consider when evaluating LEC eligibility are: a) whether the carrier will advertise its services, b) what services the carrier provides and c) what service area will be supported.

Service Area

The term "service area" used in Section 214(e)(1) above is not necessarily the same as the certificated service area used by the Commission in its day-to-day proceedings. For purposes of eligibility, the term "service area" is the geographic area for which the federal system will calculate and pay support. Carriers eligible to receive universal service support must serve the entire service area. In general the Commission has primary authority to set the service area under Section 214(e)(2) and e(5) of the Act.

In urban areas the Commission has a fair amount of discretion as to how to select the service area. Rural areas are handled differently: The Act states that "In the case of an area served by a rural telephone company, "service area" means such company's "study area" ⁷ unless and until an alternative definition is established by the FCC and the States after consultation with a Federal-State Joint Board.⁸ An FCC proposed definition for rural service area cannot take effect without state commission agreement. To Staff's knowledge, all LECs in Alaska except those serving the Anchorage market are deemed "rural".

The FCC stated that unreasonably large service areas could be a market barrier violating Section 253 of the Act.⁹ The FCC also encouraged states to consider disaggregating a rural telephone

⁵47 U.S.C. § 214(e)(1)(A) and (B).

⁶CC Docket No. 96-45, Report and Order, at 135, May 8, 1997.

⁷47 USC 214(e)(5).

⁸A study area is the geographic area covered by the utility's financial accounting records. Most utilities in Alaska have only one study area which corresponds to their certificated service area. However, both Telephone Utilities of the Northland, Inc., and Telephone Utilities of Alaska, Inc., have in their certificated service areas more than one study area, with separate accounting records for each.

⁹CC Docket No. 96-45, Report and Order, FCC 97-157, at 129 (May, 1997).

Staff Memorandum

Page 4

company's study area into service areas composed of contiguous portions of that study area. Dividing up study areas as suggested by the FCC may be difficult as financial records are not currently kept to identify costs on other than a study area basis. Commentors filing response to Order No. 1 in Docket R-97-6 (Universal Service) disagree as to whether the Commission should as a policy set service area based on the study area or on a smaller area basis. No comments were received in Docket U-97-145 regarding the service area specific to BBTC's application.

Services to be Provided

As previously stated, section 214(e)(1)(A) of the Act requires that as a condition of eligibility, a carrier must "offer the services that are supported by Federal universal service support mechanisms under section 254(c)". FCC regulations state that to be eligible for support for local exchange, school, library, and rural health care services, a carrier must provide the following services in its service area, or obtain waiver from the state Commission:¹⁰

- 1) Voice Grade access to the public switched network,
- 2) Local usage,
- 3) Dual tone multi-frequency signaling or its functional equivalent,
- 4) Single-party service or its functional equivalent,
- 5) Access to emergency services,
- 6) Access to operator services,
- 7) Access to interexchange services,
- 8) Access to directory services,
- 9) Toll limitation for qualifying low-income consumers (including LinkUp services).¹¹

Each of the above nine services is defined at 47 CFR 54.101, except for the LinkUp which is described in 47 CFR 54.411.

The FCC allows a state commission to grant waiver of the requirement to provide single-party, access to enhanced 911, and toll limitation services to allow additional time for a carrier to complete network upgrades necessary to provide service. The FCC stated: "State commissions should grant such a request only upon a finding that exceptional circumstances prevent an otherwise eligible telecommunications carrier from providing single-party service, access to enhanced 911 service, or toll limitation."¹²

¹⁰See 47 CFR 54.201(d)(1).

¹¹See 47 CFR 54.411(a) stating LinkUp service is an obligation under 47 CFR 54.101(a)(9) and 54.101(b).

¹²47 CFR 54.101(c).

Staff Memorandum

Page 5

Staff proposes that for purposes of reviewing the LEC eligible carrier applications, the Commission conclude that a LEC providing the nine services identified above has proven its engineering and financial capability of providing local exchange services in general and it therefore can be concluded the utility would also be able to provide 1.544Mbps *local* services to the small number of RHCP customers likely to require service in a community. As a result, Staff recommends that a carrier deemed eligible for general local and low income universal services also be deemed eligible to receive universal support for qualifying local exchange services provided to RHCPs.

Presently the Commission has pending several dockets¹³ involving whether *interexchange* carriers may obtain eligible carrier status for provision of interexchange services to RHCPs. Staff believes that its recommendation regarding BBTC would not change as a result of a decision in these other pending dockets as: a) BBTC is not currently authorized to provide interexchange services in its proposed local service area, and b) BBTC appears eligible for both local exchange RHCP service funding and for rural/high-cost/low-income local exchange funding. Staff believes it is therefore irrelevant to Docket U-97-145 whether or not the Commission decides a utility may qualify as an eligible carrier separately for different types of universal service in the other pending dockets.

Lifeline

Under 47 CFR 54.405, "All eligible telecommunications carriers shall make available Lifeline service, as defined in § 54.401 to qualifying low-income consumers." Under 47 CFR 54.411, eligible carriers must also provide LinkUp services and LinkUp services are included as part of the Toll Limitation requirement portion of the nine services. Both Lifeline and LinkUp allow qualifying low-income customers to receive reduced local rates and reduced charges for commencing telephone service. In specific, Lifeline provides a reduction to the basic local rate and Subscriber Line Charge payments while LinkUp provides a reduction in the carrier's customary non-recurring charge for commencing telecommunications services at a consumer's principal place of residence.

Resale

Under the Act pure resellers cannot be eligible carriers. An eligible carrier must offer services either "using its own facilities or a combination of its own facilities and resale of another carrier's services."¹⁴ The FCC contends however, that "own facilities" includes facilities obtained as

¹³As an example, see Docket U-97-173 regarding GCI Communication Corp. request for eligible carrier status for interexchange services to rural health care providers.

¹⁴47 USC 214(e)(1)(A).

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unbundled network elements purchased from other carriers.¹⁵ Resale is not an issue in this Docket.

Docket R-97-6

Order No. 1 in Docket R-97-6 (Universal Service) directed any carrier wishing to be designated a carrier eligible for federal universal service support to submit by September 22, 1997, an affidavit explaining how the carrier met the requirements of Section 214(e)(1) of the Act. Any interested person opposing such designation of a particular local exchange carrier (LEC) was to file such opposition by October 22, 1997. The Order further stated if a "LEC affidavit" was opposed on factual or legal grounds, the Commission would establish a hearing schedule to ensure all issues were resolved by January 1, 1998.

¹⁵47 CFR 54.201 (f).

Discussion

On September 11, 1997, BBTC filed an application (Docket U-97-145) requesting eligible carrier status throughout its certificated service area. Staff recommends conditional approval of BBTC's application as discussed below.

Service Area: BBTC's proposed service area is the same as its study area, and therefore consistent with the Act regarding rural company service areas. No comments opposed BBTC's proposed service area. Staff recommends acceptance of BBTC's proposed service area for purposes of determining eligibility.

Services Criteria of Section e(1)(A): BBTC asserted it provides each of the previously identified nine universal services throughout its service area.¹ The only issue regarding whether the utility has met the Section e(1)(A) criteria is the Toll Control part of Toll Limitation service for low income customers.

The FCC defined Toll Limitation services as both Toll Blocking and Toll Control.² Toll Control is defined as follows:

"Toll Control" is a service provided by carriers that allows consumers to specify a certain amount of toll usage that may be incurred on their telecommunications channel per month per billing cycle.³

To Staff's knowledge, based on assertions filed in all of the LEC dockets related to eligibility, no local carrier in Alaska has equipment capable of limiting a customer's monthly toll calling to a set amount of usage. For example, no carrier can block a customer's outgoing long distance calls after that customer has placed \$30.00 worth of calling that month. In order to block the customer's long distance calling after a set amount of billing, the local carrier would likely need to have access to the customer's long distance account information, information commonly available only to the customer's long distance carrier. Given the above, local carriers seeking eligibility in Alaska have either stated that they cannot comply with the Toll Control requirement, have sought waiver from the Commission, or proposed to achieve Toll Control through sale of debit cards in conjunction with toll blocking. BBTC proposes to comply with the Toll Control requirement through sale of debit cards in conjunction with toll blocking.

¹BBTC does not currently provide LinkUp services, but has committed to do so by January 1, 1998, subject to Commission approval of TA29-182.

² See 47 CFR §54.400(b)-(d).

³ 47 CFR §54.400(c).

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Provision of Toll Control service through sale of debit cards in conjunction with toll blocking appears to be a reasonable approach at this time. It allows customers the ability to provide controlled amounts of toll calling. Staff recommends that the Commission accept BBTC's approach to Toll Control, but with the following conditions:

- a) BBTC should not unduly discriminate in the selection of debit card carriers it makes available to its low income customers;
- b) The debit cards must be associated with an authorized intrastate interexchange carrier;
- c) No implicit authority or waiver of intrastate regulations is granted by virtue of the Commission's accepting BBTC's proposal to act as a retail vendor of debit cards of authorized intrastate interexchange carriers to low income customers;
- d) If BBTC demonstrates that debit cards are readily available in its service area, and subject to Commission approval, the Toll Control requirement may be met by the utility apprising its low income customers on how Toll Control may be provided through debit cards and call blocking. In this instance, BBTC would not need to sell debit cards to meet its Toll Control requirement. To take advantage of this option, BBTC must file a request with supporting information by December 1, 1997.

Staff believes its recommendation will allow the utility to comply with the Toll Control requirement. It is possible however, that the FCC may deem the above approach an inadequate substitute for Toll Control services. As a precaution, Staff recommends the Commission grant the utility limited waiver of the Toll Control requirement to the extent the requirement is not fulfilled by compliance with the Commission's directives.

With the above conditions, Staff recommends that the Commission find BBTC meets the services criteria of Section e(1)(A).

Advertising Criteria of Section e(1)(B): Staff believes BBTC meets the Section e(1)(B) requirements as the utility will advertise the availability of all of its services through ads in the Bristol Bay Times, billing stuffers, and quarterly newsletters.

Lifeline: The FCC requires eligible carriers to provide Lifeline and LinkUp services. BBTC has filed TA29-182 proposing Lifeline / LinkUp services.

Conclusion

Staff recommends the Commission grant Bristol Bay Telephone Cooperative, Inc. (BBTC) status as an Eligible Carrier in its designated certificated service area, for purposes of receiving all available federal universal service funding for local exchange services and subject to conditions regarding the sale of debit cards by BBTC. BBTC should be granted limited waiver of the Toll Control requirement as further discussed in this memorandum.